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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/549,354	05/08/2006	Jack Fridthjof	GRP-0136	6727
23413 7590 10/01/2008 CANTOR COLBURN, LLP 20 Church Street 22nd Floor Hartford, CT 06103				
EXAMINER BLOUNT, ERIC				
ART UNIT 2612		PAPER NUMBER		
NOTIFICATION DATE 10/01/2008		DELIVERY MODE ELECTRONIC		

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

usptopatentmail@cantorcolburn.com

### Office Action Summary

**Application No.**

10/549,354

**Applicant(s)**

FRIDTHJOF, JACK

**Examiner**

ERIC M. BLOUNT

**Art Unit**

2612

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 14 September 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 23-49 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 43, 47 and 48 is/are allowed.
- 6) ☒ Claim(s) 23-39, 41, 42 and 44-46 is/are rejected.
- 7) ☒ Claim(s) 40 and 49 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 14 September 2005 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

## **DETAILED ACTION**

### ***Information Disclosure Statement***

1. The information disclosure statement filed on September 14, 2005 includes several foreign references which have not been considered by the examiner. These references have not been considered because applicant has not provided an English translation of either the specification or the abstract that would allow the examiner to reasonably review each reference.

### ***Drawings***

2. The drawings are objected to because Figures 3-8 include a plurality of unlabeled boxes. Each of the boxes should be labeled with the appropriate text label for describing each box. Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will

be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

### *Claim Objections*

3. Claim 49 objected to under 37 CFR 1.75(c), as being of improper dependent form for failing to further limit the subject matter of a previous claim. Applicant is required to cancel the claim, or amend the claim to place the claim in proper dependent form, or rewrite the claim in independent form. Claim 49 currently depends from claim 51 which is non-existent.

### *Claim Rejections - 35 USC § 112*

4. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

5. Claims 26-39 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

- Regarding independent claim 26, the phrase "such as" renders the claim indefinite because it is unclear whether the limitations following the phrase are part of the claimed invention. See MPEP § 2173.05(d). Since claims 27-39 depend from claim 26, they are rejected using similar reasoning.
- Claim 26 includes the word "about" in line 11. The word about is indefinite because it is unclear what values fall in the range of "about" 20 degrees.

- Regarding independent claim 44, the phrase "such as" renders the claim indefinite because it is unclear whether the limitations following the phrase are part of the claimed invention. See MPEP § 2173.05(d).

***Claim Rejections - 35 USC § 102***

6. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

7. Claims 41 and 42 are rejected under 35 U.S.C. 102(b) as being anticipated by Blaney [US 6,166,645 A].

Regarding independent **claim 41**, Blaney discloses a road surface property detection device to be mounted on a vehicle for contactless detection of surface properties of a road surface and providing an output accordingly, comprising:

- a radiation emitter directed towards the road surface and at least one detector for detecting the radiation reflected from the road surface and providing an output accordingly; and
- washing means for the emitter and the at least one detector for recurrently flushing thereof (column 3, lines 30-65 and Abstract).

As for **claim 42**, the washing means is connected to and operates concurrently with a windshield washer system of the vehicle (column 3, lines 30-65).

***Claim Rejections - 35 USC § 103***

8. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

9. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

10. Claims 23-25, 45, and 46 are rejected under 35 U.S.C. 103(a) as being unpatentable over Decker [US 4,274,091] in view of Breed et al [US 6,720,920 B2].

Regarding **claim 23**, Decker discloses a road surface property detection device for mounting in a vehicle, comprising:

a sensor device having a radiation emitter directed towards the road surface and at least one detector for detecting the radiation reflected from the road surface and providing an output accordingly, and data processing means for processing the output from the at least one detector to determine surface properties of the road and providing an output accordingly (column 3, lines 50-65 and column 5, lines 12-33).

While Decker discloses a sensor device for detecting a road surface property and an indicating means for notifying a driver of the road surface condition; Decker does not disclose a

transmission means. In an analogous art for detecting environmental conditions affecting a traveling vehicle, Breed discloses a road surface property detection device for mounting in a vehicle comprising:

transmission means for receiving said output from the sensor device and conducting a wireless transmission of road surface property data based thereon to a receiver exterior to the vehicle;

wireless receiver means adapted to receive radio transmissions of data from transmission means of devices similar to the detection device itself; and

data output means for receiving an input from the receiver means and presenting an output perceivable by a driver of the vehicle based thereon (See abstract; column 23, line 28 - column 24, lines 13; column 58, lines 14-19). Since both inventions disclose systems for detecting a road surface property it would have been obvious to the skilled artisan to try the communication techniques taught by Breed in the invention of Decker to yield the predictable results of a road surface detector capable of communicating information directly to other vehicles in the vicinity and not relying on late and/or inaccurate information associated with a base station.

As for **claim 24**, Breed discloses transmitting position data (column 1, line 47 - column 2, line 10).

As for **claim 25**, Decker discloses an indicator means for providing an output perceivable by the driver (column 5, lines 12-33). It would have been obvious to the skilled artisan that the vehicle be capable of providing an output that corresponded to the detector provided on the driver's own vehicle.

As for **claims 45-46**, Breed discloses that road surface data can be communicated between a plurality of vehicles and stationary information arrangements (Abstract).

***Allowable Subject Matter***

11. Claims 43, 47, and 48 are allowed.
12. Claim 40 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

***Conclusion***

13. **Claims 26-39 and 44** appear to have allowable subject matter if applicant is able to overcome the rejections of the claims under 35 USC 112 2<sup>nd</sup> paragraph.
14. Any inquiry concerning this communication or earlier communications from the examiner should be directed to ERIC M. BLOUNT whose telephone number is (571)272-2973. The examiner can normally be reached on Monday-Thursday 8:00 am - 4:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, George Bugg can be reached on (571) 272-2998. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.



Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Eric M. Blount  
Examiner  
Art Unit 2612

/Eric M. Blount/  
Examiner, Art Unit 2612